

IN THE DRAWINGS

The attached sheets of drawings include changes to Figs. 1, 2A, 2B, 3, 4, and 6. These sheets, which include Figs. 1 and 6, replace the original sheets including Figs. 1, 2A, 2B, 3, 4, and 6.

Attachment: Replacement Sheets

REMARKS/ARGUMENTS

Favorable consideration of this application is respectfully requested.

Claims 1-15 are pending. Claims 1-12 have been amended to overcome the formal objections to Claims 3, 4, and 6-12 and to place all of Claims 1-12 in appropriate U.S. format, and to add new Claims 13-15 without the introduction of any new matter. In this last regard, the changes to the claims are clearly formal in nature with the subject matter of Claims 1-12 and 15 finding clear support in the previous versions of each claim and with Claims 13 and 14 finding clear support at page 6, lines 17-21, for example.

The outstanding Action includes objections to the drawings, an objection to the specification, an objection to Claims 3, 4, and 6-12, a rejection of Claims 1-5, 7, 8, and 10 under 35 U.S.C. §102(e) as being anticipated by Gorsuch et al. (U.S. Patent No. 6,388,999, Gorsuch), and a rejection of Claims 6, 9, 11, and 12 under §103(a) as being unpatentable over Gorsuch.

Applicants respectfully request that the objections to the drawings be withdrawn in light of the new Fig. 6 (that has been labeled “Prior Art” as suggested) and the new Figures 1, 2A, 2B, 3, and 4 (including descriptive text labels as suggested) that are contained on the replacement drawing sheets submitted herewith.

Applicants further respectfully request that the objections to the specification as lacking section headings be withdrawn in light of the present amendments to the specification to add the suggested headings.

Applicant also respectfully request that the objections to Claims 3, 4, and 6-12 be withdrawn in light of the present amendments to these claims to correct the noted formal matters.

Turning to the rejection of Claims 1-5, 7, 8, and 10 under 35 U.S.C. §102(e) as being anticipated by Gorsuch, it is noted that these claims patentably define over Gorsuch at least

because Gorsuch does not teach or suggest that a needed amount of bandwidth cannot exceed the predetermined amount of bandwidth which has been allocated to a certain connection requiring a certain quality of service.

Instead, Gorsuch teaches (at column 10, lines 9 to 21; column 8, lines 49 to 52; and column 7, lines 28 to 47; and column 7, lines 1 to 13) that bandwidth is allocated depending on an urgency factor. The urgency factor is determined depending on buffer usage, wherein one buffer is provided for one terminal. Thus, in Gorsuch the bandwidth is freely allocated depending only on the urgency factor taught therein.

However, independent Claims 1, 4, 7, and 10, recite that a needed amount of bandwidth cannot exceed the predetermined amount of bandwidth. See Fig. 5 of the specification, for example, showing that the needed amount of bandwidth (denoted by reference sign 2B) may not exceed the predetermined amount of bandwidth (denoted by reference sign 2A).

The effect of this feature of the independent claims is that it is possible to guarantee a certain quality of service (as was already expressed in the claim language). If there are several connections, as also depicted in exemplary Fig. 5 of the specification, it is assured that the total amount of bandwidth permits a certain number of guaranteed quality of service connections.

In other words, the claimed subject matter permits a guarantee of a certain quality of service, which is not possible according to Gorsuch. This is because in Gorsuch, the bandwidth is freely allocated for each terminal depending only on the urgency factor. There is, however, no control of the urgency factor and the behaviour of the network cannot be predicted. For example, it is completely unclear how the system of Gorsuch would behave if all terminals were to have a high urgency factor.

According to the subject matter of the independent claims, there will be no conflict of guaranteed quality of service connections, because each quality of service connection has at least a predetermined amount of bandwidth (for example, note reference numerals 2A, 3A, and 4A in Fig. 5), once allocated.

Regarding the relied upon teachings of column 6, lines 17 to 30 of Gorsuch, these teachings merely offer an example that the system of Gorsuch may allocate less bandwidth than the total amount of available bandwidth. The total amount of available bandwidth cannot be compared to the predetermined amount of bandwidth of the independent claims that can be freely set according to the demands of a certain connection.

Also, it is clear that Gorsuch does not teach or suggest immediate reallocation of the freed bandwidth so that an indicated amount of bandwidth is available to the owner as independent Claims 1 and 7 require.

In this regard, in Gorsuch, if there are two subscriber units, e.g., subscriber units 101 and 102 in Fig. 1, having a high urgency factor, then e.g., subscriber unit 101 may not have an immediate reallocation of the freed bandwidth. The reason is that subscriber unit 102 in the example also has a high urgency factor which requires the currently allocated bandwidth.

As is clear from the above, Gorsuch requires computing an urgency factor in order to allocate the bandwidth to the different connections. However, determining the urgency factor is quite complex as is clear from column 8, line 63, to column 10, line 8 of Gorsuch.

According to the subject matter of the independent claims, the complex computation of an urgency factor is not necessary since a predetermined amount of bandwidth is first allocated, and a needed amount of bandwidth does not exceed this predetermined amount of bandwidth (see the arguments above). Hence, a situation where a certain quality of service cannot be guaranteed, e.g., due to two competing high urgency factors as in Gorsuch, cannot arise.

New dependent Claims 13 to 15 make more explicit the allocation of the predetermined amount of bandwidth (note again reference signs 2A, 3A, and 4A in Fig. 5).

As Claims 2, 3, 5 and 8 depend from one of the above-noted independent claims, these dependent claims patentably define over Gorsuch for at least the reasons noted above. In addition, each of these dependent claims and newly added dependent Claims 13-15 add further features not taught or suggested by Gorsuch and further patentably define over Gorsuch for this reason as well.

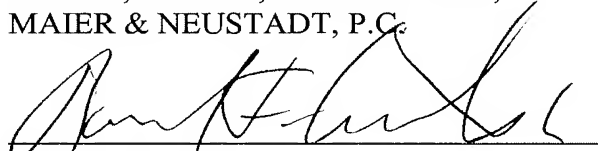
With regard to the rejection of Claims 6, 9, 11, and 12, Gorsuch does not teach or suggest an ad hoc network. In fact, Gorsuch teaches a cellular CDMA communication system comprising multiple sub-channels. Thus Gorsuch does not teach or suggest any concern with the American 802.11a standard, just a cellular CDMA communication system. Accordingly, there is no evidence suggesting modifying Gorsuch to an 802.11a standard and none to suggest further modifying Gorsuch to the ETSI HIPERLAN/2 standard. Official Notice cannot be substituted for evidence, especially when mere speculation as to what Gorsuch “can be” is involved as this is an unfounded assumption. Such expansion of reference teachings using unfounded assumptions and/or speculation cannot be substituted for actual reference teachings. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967) (“The Patent Office has the initial duty of supplying the factual basis for its rejection. It may not, because it may doubt that the invention is patentable, resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis.”). Thus, withdrawal of this rejection is respectfully requested.

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Reply to Office Action of 04/27/2007

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for formal allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Bradley D. Lytle', is written over a horizontal line.

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